

REMARKS

Claims 1-42 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the Species Requirement in view of the amendments and remarks contained herein.

APPLICANT INITIATED INTERVIEW SUMMARY

Applicants thank the Examiner for the interview granted with Applicants' representative on March 20, 2007. During the interview only the species election requirement was discussed. Applicants' representative argued that the species requirement was unclear and improper. No agreement was reached regarding the species election, **but the Examiner agreed to more fully explain the species election requirement in a further Office Action.**

SPECIFICATION

Applicants have amended the specification in a non-narrowing manner.

SPECIES RESTRICTION REQUIREMENT

The Office Action asserts this Application contains claims directed to the following patentably distinct species of the claimed invention:

- I. Species of one embodiment on page 4 of the specification;
- II. Species of another embodiment on page 4 of the specification;
- III. Species of yet another embodiment of page 4 of the specification;
- IV. Species of another embodiment on page 5 of the specification.

Applicants believe that the species identified in the Office Action are I. in paragraph 9, II. in paragraph 10, III. in paragraph 11, and IV. in paragraph 12. If the submitted species are identified in other parts of the specification, Applicants request that the Office clearly and distinctly point out those parts of the application, as filed, that defined the species sought by the Office to be elected amongst.

Applicants respectfully traverse the initial Species Restriction Requirement because Applicants submit that there is disclosure of a relationship between the species. Applicants point to the text of the Species Restriction pointed out in the Office Action indicating that all of the "Species" on page 4 and 5 related to registering two-dimensional images to three-dimensional images. Moreover, Applicants note that the Manual of Patent Examination and Procedure indicates that, "Claims are definitions >or descriptions of inventions. *Claims themselves are never species.*" See M.P.E.P. 806.04(e). Paragraphs nine to twelve, on pages four and 5 of the application as filed, however, parrot the claims as filed. Thus, the summary, in part, helps define the scope of the disclosure rather than calling out each of many different species. Applicants have amended the Specification herein to assist in clarifying this point.

The relationship disclosed in the Specification demonstrates that the Species are interrelated to an extent great enough to allow coextensive searching and examination. Although each of the claims is patentably distinct, the Species identified in the Office Action are not proper species because they are related. Further, even if a relationship between the inventions has not been established, Applicants submit that Applicants have submitted a reasonable number of species; therefore, the Species Restriction Requirement is inappropriate. See 37 C.F.R. § 1.146.

Finally, no serious burden has been indicated in the Office Action, as required by M.P.E.P. §808. Applicants respectfully submit that the Office Action does not indicate any burden at all. The identified species are not indicated to be in separate classifications or in different field of searches. Moreover, the Office Action only indicates the possibility of four species, which, as noted above, are related.

Therefore, Applicants respectfully submit, that a showing of each species being separate or distinct inventions, a showing of a serious burden on the Examiner, or a showing of an unreasonable number of species. It appears that the Species Restriction Requirement is based on the "Summary" in the application as filed. The "Summary" parrots the claims as filed and, as such, Applicants submit, can not support a Species Restriction Requirement. See M.P.E.P. §806.04(e) (*Claims themselves are never species.*) Accordingly, Applicants submit that the Species Restriction Requirement is improper and should be withdrawn.

LINKING CLAIMS

Even if there are two or more properly divisible inventions, so that a requirement to restrict the application to one would be proper, the Applicant submits that there are linking claims which, if allowed, act to prevent restriction between inventions that can otherwise be shown to be divisible. Applicants submit the linking claim is a genus claim linking species claims. Applicants further submit that the Species Restriction Requirement should only be made subject to the non-allowance of linking Claims 28 and 37 (MPEP § 809.03). In this regard, claims 28 and 37, and each of the claims that depend from these, are not mutually exclusive of claims 1 and 16, and each of the

claims that depend thereon. Applicants understand, "Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species". Id. at §806.04(f). Therefore, Applicants traverse the Species Restriction Requirement at least insofar as the aforementioned requirement has not been shown.

PETITION DIRECTOR

If the restriction requirement is maintained and made final, Applicants preserve, through the traversal of the restriction by Applicants, the right to petition the Director to review the requirement now or may defer the petition until after final action or allowance of claims to the invention elected (37 C.F.R. § 1.144).

In view of the above, Applicants respectfully request reconsideration or modification of the Species Restriction Requirement.

ELECTION WITH TRAVERSE

With traverse, however, the Applicants elect, for initial examination Species IV. Applicants assert that Claims 1-42 read on this species.

Applicants submit that Species IV., which Applicants believe is asserted to be defined in paragraph 12, defines or relates to each of the claimed elements in Claims 1-

42. Again, if Applicants' understanding of the Office's definition of the Species is incorrect, Applicants request that a specific and detailed identification of those parts of the application, as filed, that define the species be identified. In addition, if the Species Restriction Requirement is modified or changed without being withdrawn, Applicants request a further opportunity to respond to an modified Species Restriction Requirement.


CONCLUSION

Applicants believe that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: March 23, 2007

By: _____


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